

§ 1477.205

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unharvested, as determined by an appraisal.

§ 1477.205 Calculation of acreage for crop losses other than prevented planted.

(a) Subject to paragraph (b) of this section, the acreage of a crop planted in each planting period shall be considered a different crop for the purpose of determining disaster benefits under this subpart.

(b) In cases where there is a repeat crop, double crop or a multiple planting, each of these crops may be considered different crops if the county committee determines that:

(1) Both the initial and subsequent planted crops were planted with an intent to harvest;

(2) The subsequent crop was planted after the time when the initial crop would normally have been harvested;

(3) Both the initial and subsequent planted crops were planted within the normal planting period for that crop; and

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices.

(c) In cases where an initial crop is planted and fails due to an eligible disaster condition and it is generally considered too late to replant and a subsequent crop is planted on the same acreage within its normal planting period in the same crop year and also failed because of an eligible disaster condition, both crops are eligible for disaster assistance if they meet all other eligibility provisions of this part.

§ 1477.206 Calculation of prevented planted acreage.

(a) When determining losses under this subpart, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this subpart for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this subpart for pre-

vented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: California safflowers; peanuts; peppers; popcorn; Central/Southern potatoes; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) For uninsured or noninsurable crops, or the insured crops listed in paragraph (c) of this section, the producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that both:

(1) Prevented most producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Unless otherwise allowed by the Deputy Administrator, began no earlier than the planting season for the 1998 crop.

(e) Prevented planted disaster benefits under this subpart shall not apply to:

(1) Aquaculture, including ornamental fish; perennial forage crops grown for hay, seed, or grazing; ginseng root and ginseng seed; honey; maple sap; millet; nursery crops; sweet potatoes; tobacco; trees; turfgrass sod; and tree and vine crops;

(2) Any acreage which is double-cropped, even if the producer has a history of double-cropping acreage;

(3) Uninsured crop acreage that is unclassified for insurance purposes;

(4) Acreage that is used for conservation purposes or intended to be left unplanted under any USDA program;

(5) The same acreage from which any benefit is derived under any program administered by the USDA on which a crop is planted and fails during the crop year except as provided in 1477.106(f) of this part;

(6) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(7) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless

the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(8) Acreage for which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(9) Acreage for which the producer or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements; and

(10) Acreage for which the producer cannot provide proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of at least producing a normal yield.

(f) Disaster benefits under this subpart shall not apply to acreage where the prevented-planted acreage was affected by a disaster that was caused by drought or the failure of the irrigation water supply unless the acreage is in an area classified by the Palmer Drought Severity Index as in a severe or extreme drought during the time period specified by the producer.

(g) For uninsured or noninsurable crops and the insured crops listed in paragraph (c) of this section, for prevented planting purposes:

(1) The maximum prevented-planted acreage for all crops:

(i) Cannot exceed the number of acres of cropland in the unit for the crop year; and

(ii) Will be reduced by the number of acres planted in the unit;

(2) The maximum prevented planted acreage for a crop cannot exceed the number of acres planted by the producer, or which was prevented from planting, to the crop in any 1 of the 1994 through 1997 crop years as determined by the county committee;

(3) For crops grown under a contract specifying the number of acres contracted, the prevented-planted acreage is limited to the result of the number of acres specified in the contract minus planted acreage;

(4) For each crop type or variety for which separate prices or yields are sought for prevented-planted acreage, the producer must provide evidence that the claimed prevented-planted

acres were successfully planted in at least 1 of the most recent 4 crop years; and

(5) The prevented planted acreage must be one contiguous block consisting of at least 20 acres or 20 percent of the intended planted acreage in the unit, whichever is less.

§ 1477.207 Quality adjustments to production.

(a) Subject to paragraph (b) of this section, the quantity of production of crops that were damaged due to disaster resulting in diminished quality, shall be adjusted by the county committee in accordance with instructions issued by the Deputy Administrator.

(b) Crops eligible for quality adjustments to production are limited to:

(1) Barley; canola; corn; cotton; flaxseed; grain sorghum; mustard seed; oats; peanuts; rapeseed; rice; safflower; soybeans; sugar beets; sunflower-oil; sunflower-seed; tobacco; wheat; and

(2) Crops with multiple market uses such as fresh, processed or juice, as supported by NASS data or other data determined acceptable in accordance with instructions issued by the Deputy Administrator. RMA loss production figures will not be used to conduct this quality adjustment unless the Deputy Administrator determines otherwise.

(c) The producer must submit documentation for determining the grade and other discount factors that were applied to the crop.

(d) Quality adjustments will be applied after production has been adjusted to standard moisture, when applicable.

(e) Except for cotton, if a quality adjustment has been made for multi-peril crop insurance purposes, an additional adjustment will not be made.

(f) Quality adjustments for crops, other than cotton, peanuts, sugar beets and tobacco, listed in paragraph (b)(1) of this section may be made by applying an adjustment factor based on dividing the Federal marketing assistance loan rate applicable to the crop and producer determined according to part 1421 of this chapter by the unadjusted county marketing assistance loan rate for the crop. For crops that grade sample and are marketed through normal channels, production